

In The United States District Court for Maryland

Terance A Tracy (Pro Se)
Petitioner

v

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* Civil Action No. 23-
cv-02711-LKG

Robert Joseph Ray, Et Al.
Respondent

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**Petitioner's Response to Defendant's Opposition
to Request for Default**

1. Rule 55(a) is not a Motion nor is it a Dispositive Motion requiring any "Notice of intent to File a Motion" pursuant to the Case Management Order. Further, it does not require an Answer by the Defense. If The Clerk approves and enters the default, only then would it be proper for the Plaintiff to Motion The Court for a Default Judgment along with declarations showing the cause for default and showing the damages claimed. Only then does a defendant have leave to file a Motion to Set Aside the Default by the Clerk or a Default Judgment made by The Court under FRCP 55(c) for good cause or under one of the reasons listed in FRCP 60(b). Plaintiff has filed no such Motion to The Court.

2. As to the Proposed Scheduling Order made by Defendants, FRCP 16(b) (2) states, " *Time to Issue*. The judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared". Having exceeded both time parameters of Rule 16(b)(2), and having no record of objection to the Proposed Scheduling by the Plaintiff, the Defense should have leave to file their answers or motions without leave of The Court so that The Court may then consider and make a ruling on them and there is no further delay caused in this action.

3. Plaintiff asserts there is no cause for sanctions as requested by the Defense in their response as there is no requirement to answer a Rule 55(a)

Notice of Default. Nor has Plaintiff made any motions to The Court to be granted or denied as asserted by the Defense. Plaintiff would encourage The Court to proceed with a Scheduling Order in lieu of a phone conference at this time as Defendants appear prepared to file their Dispositive Motions and proceed in this action.

Respectfully submitted to The Court for consideration, Petitioner swears and affirms that the contents of this Action are true and factual to the best of his knowledge;

Signed(Petitioner): Terance A Tracy Date: 2/12/24

Terance A Tracy